

ASSEMBLY BILL

No. 1804

Introduced by Assembly Member Melendez

February 8, 2016

An act to amend Section 66001 of the Government Code, relating to development fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1804, as introduced, Melendez. Land use: development fees.

The Mitigation Fee Act requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

This bill would make nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66001 of the Government Code is
- 2 amended to read:
- 3 66001. (a) In any action establishing, increasing, or imposing
- 4 a fee as a condition of approval of a development project by a local
- 5 agency, the local agency shall do all of the following:
- 6 (1) Identify the purpose of the fee.
- 7 (2) Identify the use to which the fee is to be put. If the use is
- 8 financing public facilities, the facilities shall be identified. That
- 9 identification may, but need not, be made by reference to a capital

1 improvement plan as specified in Section 65403 or 66002, may
2 be made in applicable general or specific plan requirements, or
3 may be made in other public documents that identify the public
4 facilities for which the fee is charged.

5 (3) Determine how there is a reasonable relationship between
6 ~~the fee's use and~~ the type of development project on which the fee
7 ~~is imposed.~~ *imposed and the fee's use.*

8 (4) Determine how there is a reasonable relationship between
9 the need for the public facility and the type of development project
10 on which the fee is imposed.

11 (b) In any action imposing a fee as a condition of approval of
12 a development project by a local agency, the local agency shall
13 determine how there is a reasonable relationship between the
14 amount of the fee and the cost of the public facility or portion of
15 the public facility attributable to the development on which the
16 fee is imposed.

17 (c) Upon receipt of a fee subject to this section, the local agency
18 shall deposit, invest, account for, and expend the fees pursuant to
19 Section 66006.

20 (d) (1) For the fifth fiscal year following the first deposit into
21 the account or fund, and every five years thereafter, the local
22 agency shall make all of the following findings with respect to that
23 portion of the account or fund remaining unexpended, whether
24 committed or uncommitted:

25 (A) Identify the purpose to which the fee is to be put.

26 (B) Demonstrate a reasonable relationship between the fee and
27 the purpose for which it is charged.

28 (C) Identify all sources and amounts of funding anticipated to
29 complete financing in incomplete improvements identified in
30 paragraph (2) of subdivision (a).

31 (D) Designate the approximate dates on which the funding
32 referred to in subparagraph (C) is expected to be deposited into
33 the appropriate account or fund.

34 (2) When findings are required by this subdivision, they shall
35 be made in connection with the public information required by
36 subdivision (b) of Section 66006. The findings required by this
37 subdivision need only be made for moneys in possession of the
38 local agency, and need not be made with respect to letters of credit,
39 bonds, or other instruments taken to secure payment of the fee at
40 a future date. If the findings are not made as required by this

1 subdivision, the local agency shall refund the moneys in the
2 account or fund as provided in subdivision (e).

3 (e) Except as provided in subdivision (f), when sufficient funds
4 have been collected, as determined pursuant to subparagraph (F)
5 of paragraph (1) of subdivision (b) of Section 66006, to complete
6 financing on incomplete public improvements identified in
7 paragraph (2) of subdivision (a), and the public improvements
8 remain incomplete, the local agency shall identify, within 180 days
9 of the determination that sufficient funds have been collected, an
10 approximate date by which the construction of the public
11 improvement will be commenced, or shall refund to the then
12 current record owner or owners of the lots or units, as identified
13 on the last equalized assessment roll, of the development project
14 or projects on a prorated basis, the unexpended portion of the fee,
15 and any interest accrued thereon. By means consistent with the
16 intent of this section, a local agency may refund the unexpended
17 revenues by direct payment, by providing a temporary suspension
18 of fees, or by any other reasonable means. The determination by
19 the governing body of the local agency of the means by which
20 those revenues are to be refunded is a legislative act.

21 (f) If the administrative costs of refunding unexpended revenues
22 pursuant to subdivision (e) exceed the amount to be refunded, the
23 local agency, after a public hearing, notice of which has been
24 published pursuant to Section 6061 and posted in three prominent
25 places within the area of the development project, may determine
26 that the revenues shall be allocated for some other purpose for
27 which fees are collected subject to this chapter and which serves
28 the project on which the fee was originally imposed.

29 (g) A fee shall not include the costs attributable to existing
30 deficiencies in public facilities, but may include the costs
31 attributable to the increased demand for public facilities reasonably
32 related to the development project in order to (1) refurbish existing
33 facilities to maintain the existing level of service or (2) achieve an
34 adopted level of service that is consistent with the general plan.